IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

LOU TYLER,	§	
	§	
Plaintiff,	§	
	§	
V.	§	No. 3:23-cv-981-K
	§	
PHH MORTGAGE SERVICE, ET AL.,	§	
	§	
Defendants.	§	

ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

The United States Magistrate Judge entered findings, conclusions, and a recommendation in this case on February 8, 2024. *See* Dkt. No. 53. While no objections were filed, Plaintiff did notice an appeal to the United States Court of Appeals for the Fifth Circuit of an order entered on February 8. *See* Dkt. No. 54.

The Court first observes that, because it appears that Plaintiff is attempting to appeal the Magistrate Judge's recommendation, which itself is not an order, the interlocutory appeal is not proper, so the Court retains jurisdiction over this case. *See Nascimento v. Dummer*, 508 F.3d 905, 910 (9th Cir. 2007) ("[W]hen a litigant makes an improper interlocutory appeal, such action will not throw a monkey wrench into the machinery of our justice system. Instead, when an improper appeal is taken, the district court retains its jurisdiction to act on the case.")); *cf. United States v. Green*, 882 F.2d 999, 1001 (5th Cir. 1989) ("Notice of appeal from a non-appealable order ... does not render void for lack of jurisdiction acts of the trial court taken in the interval

between filing of the notice and dismissal of the appeal." (citing *United States v. Hitchmon*, 602 F.2d 689, 692 (5th Cir. 1979))).

And, to the extent that Plaintiff's notice should be construed as objections, the Court reviewed *de novo* those portions of the proposed findings, conclusions, and recommendation to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error.

Finding no error, the Court ACCEPTS the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

SO ORDERED.

Signed February 27th, 2024.

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UNITED STATES DISTRICT JUDGE